

Melbourne Henry

Deposition

April 28, 2006

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

CHARLIE J. DAVIS, JR.,

Plaintiff,

vs.

ZELMER HYDEN, et al.,

Defendants.

 **COPY**

\_\_\_\_\_)  
NO: A02-0214 CV (JKS)

DEPOSITION OF MELBOURNE HENRY  
FRIDAY, APRIL 28, 2006, 10:27 a.m.  
Anchorage, Alaska



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CHARLIE J. DAVIS, JR.,  
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vs.  
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DEPOSITION OF MELBOURNE HENRY, taken on  
behalf of Plaintiff, Pursuant to Notice, at MATTHEWS &  
ZAHARE, 431 West Seventh Avenue, Anchorage, Alaska,  
before Susan Campbell, Certified Shorthand Reporter  
for Alaska Stenotype Reporters and Notary Public for  
the State of Alaska.

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I N D E X  
EXAMINATION BY: PAGE  
Mr. Matthews 5

E X H I B I T S  
NUMBER PAGE  
1 Memorandum and Prisoner Grievance - 20  
4 pages  
2 Memo and attachments - 6 pages 52  
3 Document entitled "Access to Health 53  
Care Services" - 6 pages  
4 Document entitled "Health Care 55  
Organization and Administration" -  
5 pages  
5 Excerpt from DOC Policies and 55  
Procedures - 32 pages

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A-P-P-E-A-R-A-N-C-E-S

For Plaintiff: MATTHEWS & ZAHARE  
BY: THOMAS A. MATTHEWS  
431 West Seventh Avenue  
Suite 207  
Anchorage, AK 99501

For Defendants: STATE OF ALASKA  
ATTORNEY GENERAL'S OFFICE  
Department of Law  
Criminal Division  
BY: MARILYN J. KAMM  
P.O. Box 110300  
Juneau, AK 99811

Reported By: Susan Campbell  
Certified Shorthand Reporter

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ANCHORAGE, AK, FRIDAY, APRIL 28, 2006, 10:27 a.m.  
MELBOURNE HENRY,  
called as a witness on behalf of the  
Plaintiff, having been duly sworn upon  
oath by Susan Campbell, Notary Public,  
was examined and testified as follows:

EXAMINATION

BY MR. MATTHEWS:

**Q. Would you state your name for the record,  
sir?**

A. Melbourne Walder Henry.

**Q. If you'd spell all of them for me.**

A. M-e-l-b-o-u-r-n-e, W-a-l-d-e-r, H-e-n-r-y.

**Q. Do you use the title of doctor?**

A. No.

**Q. Are you a doctor by training?**

A. I am.

**Q. A medical doctor?**

A. No.

**Q. Let me tell you right to begin with, I ask  
questions sometimes simply because we need to get  
answers in a written form that we can use later for  
trial.**

A. Yeah.

**Q. Sometimes I ask questions because I simply**

2 (Pages 2 to 5)

Exhibit 16

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1 don't know the answer.  
 2 A. Yes.  
 3 Q. And I will ask you to help me through the  
 4 process.  
 5 A. And I'll be happy to do that.  
 6 Q. If I ask questions which you don't  
 7 understand for any reason, please let me know and I'll  
 8 be happy to rephrase them.  
 9 A. I will.  
 10 Q. Okay. Have you ever had a deposition taken  
 11 before?  
 12 A. Once before.  
 13 Q. In what kind of a context?  
 14 A. Within the context of the Department of  
 15 Corrections.  
 16 Q. Okay. Some years ago?  
 17 A. Yes, some years ago. We -- oh, we were  
 18 being sued by a physician who stated that we had  
 19 breached his contract.  
 20 Q. A contracted physician with the  
 21 Department --  
 22 A. With the Department --  
 23 Q. -- of Corrections?  
 24 A. -- of Corrections, yes.  
 25 Q. Let me ask you one favor, if I can, as we're

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1 going through. You're going to be very good, I can  
 2 tell, at anticipating my question. But if you'd let  
 3 me get it out, it will make it much easier on our  
 4 court reporter, so we're not talking over the top of  
 5 each other. Okay?  
 6 A. Excellent.  
 7 Q. What is an address where we can reach you?  
 8 A. 8651 Kushtaka, K-u-s-h-t-a-k-a, Circle,  
 9 Anchorage, 99504.  
 10 Q. And a good telephone number?  
 11 A. (907) 333-2835.  
 12 Q. Are you currently employed?  
 13 A. I am.  
 14 Q. By whom?  
 15 A. University of Alaska Anchorage.  
 16 Q. What is your position there?  
 17 A. I'm a professor of social work.  
 18 Q. How long have you held that position?  
 19 A. One year.  
 20 Q. Is that a full-time position?  
 21 A. It is.  
 22 Q. How long have you been with the university  
 23 total?  
 24 A. One year.  
 25 Q. Prior to your work at the university, where

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1 did you work?  
 2 A. For the Department of Corrections.  
 3 Q. How long did you work for Department of  
 4 Corrections?  
 5 A. From '98 to '03, about five years.  
 6 Q. What was your position with Department of  
 7 Corrections?  
 8 A. Health care administrator.  
 9 Q. Maybe you could help me work our way back  
 10 just through your basic educational training,  
 11 background, that kind of thing, kind of a resume  
 12 format. Employment history first.  
 13 A. I mentioned Department of Corrections.  
 14 Q. Yes, sir.  
 15 A. Prior to that, I was a professor of social  
 16 work at Alabama Agricultural and Mechanical University  
 17 in Huntsville, Alabama. I was there for five years.  
 18 Before that, the University of Nevada at Reno for  
 19 three years. Prior to that, the Department of Health  
 20 and Social Services as director of mental health and  
 21 developmental disabilities.  
 22 Q. Is that the Alaska Department of Health and  
 23 Social Services?  
 24 A. Yes, the Alaska Department.  
 25 Q. And before that?

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1 A. Before that, I was health care administrator  
 2 for the Hargraves Memorial Hospital,  
 3 H-a-r-g-r-a-v-e-s, in Mandeville, Jamaica. And before  
 4 that, I was medical social worker and an associate  
 5 hospital administrator for the Appalachian Regional  
 6 Hospital, A-p-p-a-l-a-c-h-i-a-n, in Beckley,  
 7 West Virginia.  
 8 And before that -- oh, I think I just got  
 9 one out of sequence. I was director of community  
 10 health services for the Department of Health in West  
 11 Virginia, and then the Appalachian Regional Hospital.  
 12 Yes. I'm sorry about that.  
 13 Q. That's all right.  
 14 A. All right. And I was, I guess, a social  
 15 worker, child welfare worker for the Welfare  
 16 Commission for the State of Oregon. And I think  
 17 that's about it.  
 18 Q. Where did you attend university?  
 19 A. I have a Bachelor's degree in Economics and  
 20 Sociology from Warner Pacific College in Portland,  
 21 Oregon. I have a Master's in Social Work, MSW, from  
 22 Portland State University, Portland, Oregon. I have a  
 23 Master's in Public Administration, MPA, from the  
 24 University of Southern California. And I have a  
 25 doctorate in the field of social work and social

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1 gerontology from the University of Southern  
2 California.  
3 **Q. What year did you get your Ph.D.?**  
4 A. In 1975.  
5 **Q. Okay. Let me see if I can put a few years**  
6 **with some of the rest of this.**  
7 A. Yes.  
8 **Q. Your work at Alabama Agricultural**  
9 **University --**  
10 A. Yes.  
11 **Q. -- five years, that would have been**  
12 **approximately '93 to '97, '98?**  
13 A. '98. I left there directly and came up here  
14 in '98.  
15 **Q. Okay. And then the University of Nevada at**  
16 **Reno was the three years before that?**  
17 A. Yes.  
18 **Q. Which would have been '90 to '92?**  
19 A. I started there in -- it's '89 to '92.  
20 **Q. So your work for the Alaska Department of**  
21 **Health and Social Services would have been what years?**  
22 A. From '84 to '88. And I was a consultant  
23 just on my own for -- until '89 for about a year.  
24 Then I left -- I left in '89 to go to Nevada.  
25 **Q. Your work at Hargraves then would have been**

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1 **what years?**  
2 A. Hargraves would be '80 -- let's see. '80 --  
3 well, let me --  
4 **Q. Just approximately.**  
5 A. Yeah. Approximately '80, '81. And the work  
6 with the State of West Virginia with the Health  
7 Department there would be from '78 to '80, right.  
8 Because I left there and went to Jamaica. So reverse  
9 those.  
10 **Q. And the Appalachian Regional Hospital would**  
11 **have been --**  
12 A. '68 to '72.  
13 **Q. Okay. You got your Ph.D. at USC in 1975?**  
14 A. Yes.  
15 **Q. And your Master's also from USC?**  
16 A. Yes.  
17 **Q. What year was that?**  
18 A. The same year.  
19 **Q. 1975?**  
20 A. Yes.  
21 **Q. And the MSW from Portland?**  
22 A. '66.  
23 **Q. And the Bachelor's also in Oregon?**  
24 A. '64.  
25 **Q. '64. Quite an illustrious career.**

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1 A. Thank you.  
2 **Q. Let me focus you, if I can, on your work**  
3 **with the Department of Corrections in Alaska, 1998 to**  
4 **2003. That's really the focus of my inquiry today.**  
5 **You were the health care administrator?**  
6 A. I was.  
7 **Q. Tell me in your words, what does that job**  
8 **entail?**  
9 A. The job entails reporting to the  
10 Commissioner. I was responsible to the Commissioner  
11 for the health, physical health and mental health, of  
12 the prisoners within the system. I did planning,  
13 organizing, coordinating, the budgeting, hiring,  
14 reporting and decision-making in that area.  
15 **Q. Are you -- strike that.**  
16 **Were you involved as health care**  
17 **administrator in the supervision of health care at**  
18 **individual prison facilities within the State of**  
19 **Alaska?**  
20 A. No.  
21 **Q. Did you have any oversight responsibilities**  
22 **for the Palmer Correctional Center?**  
23 A. Yes.  
24 **Q. Explain, please.**  
25 A. The health personnel at Palmer ultimately

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1 reported to me.  
2 **Q. Could you explain the chain of command to**  
3 **me?**  
4 A. Each facility --  
5 **Q. Focussing just on the medical side.**  
6 A. On the medical side of it.  
7 **Q. Right.**  
8 A. We had a medical director. The medical  
9 director reported to me. The medical director was  
10 responsible for the medical staff in each facility.  
11 At Palmer, we would have physician assistants, nurses,  
12 aides and so on. And the PA was in charge. And the  
13 PA reported to the physician, medical director. And  
14 that person reported to me.  
15 **Q. Okay. During the years that you were**  
16 **health care administrator, who was the medical**  
17 **director?**  
18 A. Oh, what's his name? I can't think of it  
19 now.  
20 **Q. Was there more than one medical director**  
21 **during that time period?**  
22 A. Yes. One was Robertson. And before  
23 Robertson, there was another. I -- I can't recall his  
24 name. I'm getting old. I'm sorry.  
25 MS. KAMM: I can't either.

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1 BY MR. MATTHEWS:

2 Q. I should have asked you this at the outset,  
3 and I apologize. What is your date of birth?

4 A. April 2nd, 1938. That makes me 68 years  
5 old.

6 Q. Do you know whether or not -- is it  
7 Dr. Robertson?

8 A. Yes. Dr. Robertson.

9 Q. Was he the medical director in 2002?

10 A. I think so.

11 Q. And is Dr. Robertson an M.D.?

12 A. He is. His first name is John.

13 Q. If I understand the chain of command then  
14 from Palmer, there would have been a PA in charge for  
15 medical services reporting to Dr. John Robertson, an  
16 M.D., who would then report directly to you as the  
17 health care administrator.

18 A. Yes.

19 Q. That's basically the levels of command, if  
20 you will?

21 A. And I reported to the Commissioner.

22 Q. And was that chain of command true in 2002?

23 A. Yes. But I cannot be certain if John  
24 Robertson was the person at the time.

25 Q. If it wasn't Dr. Robertson, it would have

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1 been another M.D.?

2 A. It would have been another M.D., yes. And  
3 if we were between M.D.s, that is, we're recruiting or  
4 hiring a new M.D., we had two M.D.s who were  
5 consultants. And they were always there.

6 Q. When you say always there, meaning always at  
7 Palmer?

8 A. No. Always on contract with us and were  
9 available for services. And, in fact, they were on  
10 the payroll on a monthly basis.

11 Q. In interrogatory responses that I understand  
12 you signed this morning, we asked for a number of  
13 names about medical personnel involved at Palmer. And  
14 several names were provided. Dr. Scott Kiester?

15 A. Yes.

16 Q. Is that a name that's familiar to you?

17 A. He was one of the consultants.

18 Q. And Dr. Jim Billman?

19 A. Yes.

20 Q. Also a consultant?

21 A. He was a consultant.

22 Q. Dr. David Holladay?

23 A. Yes.

24 Q. Also a consultant?

25 A. Yes.

Page 16

1 Q. And Dr. Ron Christensen?

2 A. Yes.

3 Q. Also a consultant.

4 A. (Witness nods head.)

5 Q. Happy to show you this question and the  
6 answer, if it helps you. Really, what I want to get  
7 at is whether any of those individuals was in the  
8 position of medical director during that time period  
9 or whether they were just consultants.

10 A. All those persons were seen as consultants,  
11 yeah.

12 Q. Okay. Is it fair to say that for medical  
13 staff at Palmer, you had final oversight  
14 responsibility?

15 A. Yes.

16 Q. I assume -- tell me if I'm wrong -- that in  
17 your position as health care administrator, you had  
18 final oversight authority over medical staff at all  
19 Department of Corrections' institutions; is that true?

20 A. Not exactly, in the sense that I had  
21 oversight, but since I was not an M.D., I couldn't  
22 really have oversight for clinical work.

23 Q. Okay. The medical director then reporting  
24 to you --

25 A. Yes.

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1 Q. -- would that person have oversight for  
2 clinical work?

3 A. Yes. That would be the person responsible  
4 for clinical work.

5 Q. Was there a single medical director, say,  
6 during 2002?

7 A. As I said, I can't recall. But we -- I know  
8 John -- we'll have to get back to the records to see  
9 when John Robertson was hired. But he was medical  
10 director.

11 Q. Let me see if I can try it this way: Just  
12 in terms of the chain of command, you as the health  
13 care administrator would have had oversight  
14 responsibility for all institutions within the State.

15 A. Yes.

16 Q. Was there a single medical director who then  
17 reported to you having oversight responsibility from a  
18 clinical standpoint over all institutions within the  
19 State?

20 A. That's correct.

21 Q. So whoever that medical director was --

22 A. Yes.

23 Q. -- if the position was filled at the time --

24 A. Yes.

25 Q. -- it would have been a single individual

5 (Pages 14 to 17)

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1 with oversight responsibility?

2 A. It would have been a single individual.

3 Q. Okay.

4 A. And if the position were not filled, we  
5 would have used any of those consultants to be the  
6 medical -- to make the medical decisions that had to  
7 be made.

8 Q. What involvement would you have had directly  
9 in making medical decisions?

10 A. None.

11 Q. I mean no disrespect by this question. But  
12 do you have the training or the ability from a medical  
13 standpoint to make medical decisions?

14 A. Absolutely not.

15 Q. So that wasn't part of your responsibility.

16 A. It was not.

17 Q. It was not something you undertook.

18 A. No.

19 Q. If there were a question about the medical  
20 care of an inmate at one of the institutions, how  
21 would you as the health care administrator address  
22 that?

23 A. We would -- if I were not satisfied that the  
24 prisoner was getting services, although a medical  
25 person said he was, we would use one of our

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1 consultants as a referee. And usually, that worked  
2 through the Medical Advisory Committee.

3 Q. And explain for me, if you would, what the  
4 Medical Advisory Committee was.

5 A. Medical Advisory Committee comprised a group  
6 of medical persons, including two contract physicians  
7 and physician assistants, nurses, who met once weekly  
8 to go over cases that were not resolved at the local  
9 level.

10 Q. Was that a clinical meeting, so to speak?

11 A. It was a clinical meeting.

12 Q. Are there records kept of the Medical  
13 Advisory Committee?

14 A. Oh, yes.

15 Q. Are they kept in the form of minutes?

16 A. Yes. And usually whatever decisions were  
17 made there, I would -- I acted as sort of secretary to  
18 this thing. I signed off on them. So a prisoner  
19 would get a response from -- from the Medical Advisory  
20 council through my signature.

21 Q. Okay. That helps. Let me focus you, if I  
22 can, on an inmate at Palmer, Charlie Davis. Is that a  
23 name that's known to you?

24 A. No.

25 Q. Do you know who he is?

Page 20

1 A. No.

2 Q. Know anything about him?

3 A. No.

4 Q. Know anything about his medical condition?

5 A. Well, just what I've read.

6 Q. And that would include materials that you've  
7 been provided in this case?

8 A. Yes. That was provided to me in this case.  
9 That's the first time I heard about him.

10 MR. MATTHEWS: Mark that as number 1,  
11 please.

12 (Exhibit 1 was marked.)

13 BY MR. MATTHEWS:

14 Q. Take a look at the documents that we have  
15 marked as Exhibit 1, if you would, please.

16 A. Yes.

17 Q. Do you recognize that packet of materials?

18 A. Yes. I recognize this as coming from the  
19 Department.

20 Q. You recognize the cover sheet?

21 A. I recognize my signature.

22 Q. Okay. Tell us what this is, to the extent  
23 you remember it.

24 A. This would have come before the Medical  
25 Advisory Committee meeting on -- its regular weekly

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1 meeting, in which the medical staff would go over the  
2 grievance and would make a decision. And this  
3 decision was conveyed back to the grievant.

4 Q. This cover sheet is dated September 5th,  
5 2002, correct?

6 A. Yes, it is.

7 Q. And that bears your signature on the left  
8 next to your name?

9 A. It does.

10 Q. You mentioned a little while ago in your  
11 testimony about the Medical Advisory Committee --

12 A. Yes.

13 Q. -- that you would act as secretary for the  
14 group --

15 A. Yes.

16 Q. -- convey the decision, if you will, of the  
17 Advisory Committee back to the grievant.

18 A. Yes.

19 Q. Is what we're looking at in Exhibit 1, this  
20 top page, is that what you were talking about earlier?

21 A. Yes.

22 Q. So this page, if you will, represents the  
23 decision of the Medical Advisory Committee concerning  
24 a particular grievance.

25 A. Yes.

6 (Pages 18 to 21)



Page 22

1 Q. Not just your individual decision; is that  
2 true?

3 A. Oh, absolutely true, yes. And when you say  
4 my decision, this is the medical staff decision. And  
5 this response was prepared by a medical person. But  
6 matters going out of the Department would go under my  
7 signature, the administrator.

8 Q. Can you tell me then what involvement you  
9 had specifically in the decision to deny this  
10 grievance?

11 A. The only decision I would have in these is  
12 to determine whether or not agency policy was being  
13 followed. But in terms of the medical aspect of the  
14 decision-making, I would have no say so.

15 Q. Let me make sure I understand this cover  
16 sheet, at least.

17 A. Yes.

18 Q. Is it fair to say that this is a document  
19 which is prepared by medical staff simply for your  
20 signature?

21 A. Yes.

22 Q. In effect, you are simply the scrivener?

23 A. Except if there were some matters that would  
24 be contrary to policy, then I would say something  
25 about that.

Page 23

1 Q. Was a portion of this particular grievance  
2 directed to medical policy, in your view?

3 A. I imagine all grievances would pertain to  
4 medical policy, one way or the other.

5 Q. I guess what I'm trying to figure out is  
6 whether you had a specific role in the denial of this  
7 grievance or were simply signing off on the medical  
8 decision.

9 A. I was simply signing off on this.

10 Q. Do you have any memory as you sit here today  
11 of this particular grievance?

12 A. No, sir.

13 Q. Any idea what the underlying beef was?

14 A. No. I -- as I said, I didn't even know this  
15 guy. I never -- you know, in any given meeting, we  
16 probably look at 20 of these things. And probably  
17 some outstanding one would jump out at you. But  
18 ordinarily, no.

19 Q. Do you know, for instance, how old Mr. Davis  
20 was?

21 A. No, sir.

22 Q. Do you know what his medical condition was?

23 A. No, sir.

24 Q. Do you know why he was complaining about his  
25 medical care?

Page 24

1 A. No, sir.

2 Q. Do you know whether or not he had a serious  
3 medical condition?

4 A. No, sir.

5 Q. Do you know whether or not Mr. Davis was  
6 receiving adequate medical care at Palmer Correctional  
7 Center?

8 A. I do not know that.

9 Q. Are you in a position to say one way or the  
10 other whether or not the medical care Mr. Davis  
11 received at Palmer was adequate?

12 A. No, sir.

13 Q. Are you in a position to say one way or the  
14 other whether the medical care that Mr. Davis received  
15 at Palmer was in compliance with Department  
16 guidelines?

17 A. I'd say yes.

18 Q. How is it that you know that?

19 A. Because we hired qualified people to deliver  
20 the services. And we assumed that if they are doing  
21 their job -- but the medical director would be  
22 supervising those people. And if they were not doing  
23 their job, sooner or later, I would have heard of it.  
24 And we have the grievance process. So if a person  
25 believes he or she is not receiving services, then

Page 25

1 they would go up the chain of the grievance.

2 Q. Isn't that what happened here?

3 A. Yes. That's what -- I imagine that's what  
4 he said. But the substance of that, I would not know  
5 if he were or were not receiving, since I'm not a  
6 physician. If some -- if a physician or medical  
7 person told me that, I would then know.

8 Q. So you would have to rely upon a medical  
9 person to tell you that Mr. Davis' care was adequate  
10 or inadequate, true?

11 A. Yes.

12 Q. Do you know whether or not you did that in  
13 this case?

14 A. No, sir. I don't. I don't know.

15 Q. In looking at this packet, the grievance  
16 that was appealed was dated June the 27th, 2002, if  
17 you look at the last page.

18 A. Yes.

19 Q. And the decision which you sent back is  
20 dated September 5th, 2002, correct?

21 A. Yes.

22 Q. Are you able to tell me what happens to that  
23 grievance in the intervening time?

24 A. The 6/27/02 decision?

25 Q. Yes.

7 (Pages 22 to 25)

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1 A. So June, July, August, September. So there  
2 is probably like a three-month delay here you're  
3 asking.

4 Q. That's -- that's what it appears from the  
5 paperwork that I've seen. What I'm trying to  
6 understand is what happens in that time period.

7 A. I -- I cannot say.

8 Q. Okay. Is there some record of decision  
9 concerning a grievance appeal, like the first page,  
10 other than this letter back to the inmate?

11 A. Yes. When -- when a decision comes in to my  
12 office, it is recorded and the secretary sets a  
13 meeting with this committee. And usually, it's done  
14 within a certain number of days. So --

15 Q. In fact, the policy sets a certain number of  
16 days for --

17 A. Indeed. So I cannot say what happened from  
18 the 27th until, you know, my letter of this date. One  
19 would have to go back and see when it was logged in  
20 and when the decision was made.

21 Q. Would there be paperwork documenting the  
22 steps along the way?

23 A. Yes. There would be.

24 Q. And what paperwork would we expect to see?

25 A. The grievance and the grievance response.

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1 And we have -- I believe there was a person who was in  
2 charge of grievances. And that person would  
3 prioritize these things or send them through the  
4 system at -- to the appropriate persons within the  
5 system. And I guess at each of those stages, it would  
6 be documented.

7 Q. Would all of that documentation eventually  
8 make its way to the Medical Advisory Committee for its  
9 review in making a final determination?

10 A. Yes. There was a chart that we prepared  
11 with all of this stuff.

12 Q. In this response to the grievance appeal  
13 that you have in front of you, second sentence says  
14 "Your grievance is for the facility where you are  
15 housed not having adequate medical staff to meet your  
16 medical needs," correct?

17 A. I didn't understand the question, please.

18 Q. I'm just trying to make sure -- the second  
19 sentence of that letter --

20 A. Yes.

21 Q. -- it reads "Your grievance is for the  
22 facility where you are housed not having adequate  
23 medical staff to meet your medical needs," correct?

24 A. Yes. That's what it says.

25 Q. And the findings in the first sentence say

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1 "Your grievance states that you have a heart condition  
2 and serious medical condition that the officers are  
3 not trained to recognize and properly manage during  
4 the hours that the medical department is not open."

5 A. Yes.

6 Q. Correct?

7 A. Yes.

8 Q. Do you know what medical staff there was  
9 available to treat someone with a heart condition and  
10 serious medical condition during the hours that the  
11 medical department was not open?

12 A. I guess this individual -- this statement  
13 refers to what was contained in the grievance. I  
14 don't -- I don't know that this statement is saying  
15 that we, the medical committee, have found that you  
16 have a serious medical condition, et cetera. I don't  
17 know that is what we're saying. We're responding to  
18 his words in his grievance.

19 Q. You don't know whether he had a serious  
20 medical condition or not?

21 A. I don't know, no.

22 Q. That's outside your area of expertise?

23 A. Yes, it is. I could have learned about it.

24 But in -- in this instance, if the medical folks had  
25 determined that his condition were serious enough to

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1 warrant a higher level of care facility, he would have  
2 been transferred to a place where there was 24-hour  
3 care.

4 Q. Was such a facility available within the  
5 Department of Corrections?

6 A. Yes. In Anchorage, you'd have 24-hour care.

7 Q. If we look at the third page of this  
8 grievance, there's a section entitled Superintendent's  
9 Findings and Determination.

10 A. Uh-huh.

11 Q. Is that a portion of the grievance that you  
12 recognize?

13 A. It's here, but I don't recognize it as such.

14 Q. Does each grievance require the  
15 superintendent of the facility to essentially sign off  
16 on --

17 A. Yes.

18 Q. -- the grievance before it can get to your  
19 level, correct?

20 A. Yes, yes.

21 Q. In this case, didn't the superintendent of  
22 that facility suggest that Mr. Davis be transferred to  
23 a facility with a full-time medical staff?

24 A. Yeah. He's saying that. But, you know, I  
25 think this is an inappropriate response of the

8 (Pages 26 to 29)



Page 30

1 superintendent.

2 **Q. Why?**

3 A. Because he's not a medical person.

4 **Q. So is it fair for me to assume that if the**  
5 **superintendent makes a recommendation based upon a**  
6 **perceived medical suggestion, that the Medical**  
7 **Advisory Committee will ignore that?**

8 A. Not necessarily. If a superintendent called  
9 and said I have somebody here who is, quote, "in a  
10 life-threatening condition," which he says here, then  
11 probably the response would be has he seen the nurse  
12 or the PA. What do they have to say about that? But  
13 we would hear that. And if he said no, then we would  
14 send somebody out to make the determination if indeed  
15 this is a life-threatening situation and the person  
16 needs to be in a different facility.

17 **Q. Do you know whether or not the inmate, in**  
18 **this case, Mr. Davis, was ever seen by a physician**  
19 **while he was at Palmer Correctional Center?**

20 A. I don't know. But I'd say that it would be  
21 unusual if he did not.

22 **Q. You would have expected --**

23 A. I would have expected, yes.

24 On the -- on the other hand, we depend on  
25 the PAs to make the referral. We expect everybody

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1 who's in the facility to be seen within a certain  
2 period. And after seen, the PA determines through  
3 whatever triage system they use if this person needs  
4 to go on further. But --

5 **Q. So you're going to rely upon the on-site**  
6 **medical staff to make a recommendation.**

7 A. Of course. Of course.

8 **Q. When a prisoner makes a grievance such as**  
9 **the one we have here stating that medical care has not**  
10 **been adequate, is there a procedure within your office**  
11 **to have that person examined by a medical doctor?**

12 A. I can't quote chapter and verse, but I'd say  
13 yes.

14 **Q. That's what you would expect to happen.**

15 A. Again, we would begin -- we have different  
16 levels of care. And so if a person requests to be  
17 seen, we would hope that the physician assistant --  
18 the nurse or the physician assistant would make the  
19 determination. And once the determination is made,  
20 the person would be seen. If the person could not be  
21 seen within our own system, we would refer the person  
22 out to a contract facility.

23 **Q. Do you know whether or not Mr. Davis was**  
24 **ever seen by a medical doctor after filing this**  
25 **grievance?**

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1 A. I have no idea, sir. I don't know. But  
2 based on this response, the last sentence said "At the  
3 present time there is no indication that the medical  
4 and security staff at Palmer Correctional Center can  
5 not meet your essential health care needs per DOC  
6 policy..."

7 So at this point, I think what they were  
8 saying is that the level of care in the facility is  
9 sufficient for your needs. And if the medical people  
10 are saying that, then I would imagine that's so.

11 **Q. This is the medical people on the Advisory**  
12 **Committee.**

13 A. On the Medical Advisory Committee.

14 **Q. Do you know whether any of those medical**  
15 **people on the Advisory Committee ever examined**  
16 **Mr. Davis?**

17 A. I do not know, but it's very possible.  
18 Because usually, the physician assistants -- we have  
19 at least one physician assistant in these meetings.

20 **Q. Okay. Is that a rotating position,**  
21 **physician's assistant?**

22 A. Usually when someone has a patient that is  
23 going to be seen, that person -- if he's out in the  
24 Valley, the person is sure to come on in. Usually,  
25 the physician assistants who are there are the ones

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1 from the Anchorage area. Because the meeting is held  
2 in Anchorage and they just come on routine.

3 **Q. Maybe I'm unclear about the process. So let**  
4 **me make sure that --**

5 A. Okay.

6 **Q. -- we work it through. In a situation where**  
7 **a medical grievance is filed from Palmer, you have a**  
8 **PA who is in charge on a day-to-day basis out there.**

9 A. Yes.

10 **Q. Right? So the PA in charge in Palmer would**  
11 **then be brought in as part of the medical review that**  
12 **is done as part of the grievance appeal?**

13 A. Yes.

14 **Q. Okay.**

15 A. And depending what is happening, the person  
16 may or may not be there. But --

17 **Q. In the ideal world --**

18 A. In the ideal world, he's there.

19 **Q. Okay. Is it fair to assume that the**  
20 **identities of all people participating in the medical**  
21 **appeal would be noted somewhere in the records?**

22 A. Yes, it is.

23 (Discussion off the record.)

24 MR. MATTHEWS: If you don't mind, can we  
25 take a two-minute break?

9 (Pages 30 to 33)

Melbourne Henry

Deposition

April 28, 2006

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1 THE WITNESS: All right.  
 2 (Brief recess.)  
 3 BY MR. MATTHEWS:  
 4 Q. Back on. While we were off the record,  
 5 Dr. Henry, you remembered the name of the other  
 6 medical director, as I understand it. Right?  
 7 A. Yes.  
 8 Q. And the name you just gave us was William  
 9 Herald?  
 10 A. Yes.  
 11 Q. And he was the other medical director in  
 12 addition to John Robertson?  
 13 A. Yes. Of course, at different times.  
 14 Q. Prior to --  
 15 A. Prior to, yes.  
 16 Q. Is it safe to say that you have no specific  
 17 memory at this point of Mr. Davis' grievance appeal?  
 18 A. That's correct.  
 19 Q. Or the underlying medical conditions?  
 20 A. That's correct.  
 21 Q. Or the reasons why his appeal was denied?  
 22 A. That's correct.  
 23 Q. Or the reasons why it took from June 27th  
 24 until September 5th to deny the appeal?  
 25 A. That's correct.

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1 Q. That time period, June 27th through  
 2 September 5th, is outside the parameters of your  
 3 Department policy, right?  
 4 A. It would be, yes.  
 5 Q. Thirty days is what's specified in the  
 6 policies?  
 7 A. Don't remember.  
 8 Q. Okay. But 60 plus would be outside?  
 9 A. On, yes, definitely.  
 10 Q. Does that give you any indication as to  
 11 whether Mr. Davis' appeal was complex? Or can you  
 12 give us any insight as to why there was a delay?  
 13 A. No, sir. I can't.  
 14 Q. Were some grievance appeals delayed simply  
 15 because of backlog?  
 16 A. Could have.  
 17 Q. Were some appeals delayed because they  
 18 presented complicated questions?  
 19 A. I -- I wouldn't say so, no.  
 20 Q. Mr. Davis had an implanted defibrillator.  
 21 Were you aware of that?  
 22 A. After reading this, I became aware of it,  
 23 yes.  
 24 Q. Do you know whether or not there were other  
 25 prisoners in the system with implanted defibrillators?

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1 A. No, I do not know, sir.  
 2 Q. Do you know whether or not that was a unique  
 3 situation for the Department --  
 4 A. It was.  
 5 Q. -- at the time?  
 6 A. At that time it was.  
 7 Q. Do you know whether or not Mr. Davis  
 8 required special care because of the fact that he had  
 9 an implanted defibrillator?  
 10 A. I do not know the medical care surrounding  
 11 the defibrillator. I don't know.  
 12 Q. Would you expect that he would have had  
 13 special needs?  
 14 A. I would say yes.  
 15 Q. Do you know whether or not there were any  
 16 steps taken at Palmer Correctional Center to assess  
 17 whether or not Mr. Davis had special needs because of  
 18 his implanted defibrillator?  
 19 A. Well, I would have expected that the staff,  
 20 the medical staff, knowing this would keep him on  
 21 their radar. On the other hand, I have known persons  
 22 with defibrillators. And they require whatever --  
 23 whatever service they require, they would make that  
 24 known. So again, if he made his needs known and the  
 25 staff determined that they could handle that situation

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1 within the context of Palmer, then I would have to go  
 2 along with the staff.  
 3 Q. Do you know whether or not the staff at  
 4 Palmer when Mr. Davis was there had any training to  
 5 know what special needs Mr. Davis might have because  
 6 of his implanted defibrillator?  
 7 A. I do not know the answer to that. But I  
 8 would say that any trained medical person should know.  
 9 Q. Including a PA?  
 10 A. Including the PA, yes.  
 11 Q. Do you know what medications Mr. Davis was  
 12 taking while he was at Palmer?  
 13 A. No, sir.  
 14 Q. Do you know anything about the medical --  
 15 strike that.  
 16 Do you know anything about the dispensing of  
 17 medications at Palmer while Mr. Davis was there?  
 18 A. Well, back in '02, the policy for dispensing  
 19 medication, it would be -- would be in place would be  
 20 the same.  
 21 Q. As I understand it, Mr. Davis had a number  
 22 of medications, some of which were listed as  
 23 keep-on-person or KOP.  
 24 A. Uh-huh.  
 25 Q. And that would be consistent with Department

10 (Pages 34 to 37)

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1 policy at that time?  
 2 A. It would be.  
 3 Q. And he had one medication which was listed  
 4 as SM-ML, which as I understand it, means Self  
 5 Medicate - Med Line.  
 6 A. Yes.  
 7 Q. And that would also be consistent with  
 8 Department policy at the time?  
 9 A. Yes.  
 10 Q. Mr. Davis would have to go and physically  
 11 collect the medication that was listed as SM-ML,  
 12 correct?  
 13 A. Yes.  
 14 Q. And it would have to be dispensed by  
 15 somebody at Palmer, right?  
 16 A. Yes.  
 17 Q. And those medications would be locked up and  
 18 kept away from the general prison population.  
 19 A. That's correct.  
 20 Q. If I were to tell you that Mr. Davis would  
 21 say there were instances where the med line for  
 22 dispensing of medications was cut before all  
 23 medications were dispensed, prisoners were not given  
 24 their medications because it was time for lockdown,  
 25 would that be consistent with Department policy?

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1 A. No.  
 2 Q. Would that be of concern to you as the  
 3 health care administrator?  
 4 A. Yes.  
 5 Q. Did you ever receive such reports?  
 6 A. No.  
 7 Q. Do you know what training the correctional  
 8 officers had to allow them to dispense medications at  
 9 Palmer?  
 10 A. Technically, they did not dispense  
 11 medication. Medication would be placed in individual  
 12 containers with names of person on it by the medical  
 13 personnel. And so their job would be to identify the  
 14 person and identify the package of medication and give  
 15 it to the person. So I do not call that dispensing.  
 16 Q. Okay. So the medical personnel, for  
 17 example, nurses or PAs, would be responsible for  
 18 actually collecting the medication, making sure that  
 19 it had the proper name on it --  
 20 A. Yes.  
 21 Q. -- in a packet, putting it into some kind of  
 22 a sort tray?  
 23 A. Yes.  
 24 Q. And then that tray would be passed on so  
 25 that it could be just handed out, if you will --

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1 A. Right.  
 2 Q. -- by the correctional officers after the  
 3 medical staff left for the day.  
 4 A. That's correct.  
 5 Q. So the correctional officers who were  
 6 actually handing out those medications, do they have  
 7 any training at all in dispensing of medications?  
 8 A. I don't know that they had any special,  
 9 quote, "training," unquote. I'm sure that they would  
 10 be told to be careful and not to mix up a name. And  
 11 that they should be sure to know the identity of the  
 12 person before the person was given the stuff. But I  
 13 don't know that they were trained in pharmacology.  
 14 Q. Do you know what first aid training the  
 15 correctional officers had at Palmer?  
 16 A. I think every correctional officer is  
 17 required to go through some first aid training before  
 18 they can be hired. And once they are on the job, I  
 19 guess they have some routine training.  
 20 Q. Is first aid training for correctional  
 21 officers part of what you oversaw as the health care  
 22 administrator?  
 23 A. No.  
 24 Q. Would that be part of the training -- strike  
 25 that.

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1 Who would oversee any first aid or life  
 2 support?  
 3 A. That training would take place in the  
 4 academy where they did their training by medical  
 5 personnel. And I had no oversight responsibility  
 6 there.  
 7 Q. Do you know whether or not any of the first  
 8 aid training that was provided to correctional  
 9 officers would have included how to take a blood  
 10 pressure reading?  
 11 A. I do not know for sure, but I would say yes.  
 12 Q. You would expect that?  
 13 A. I would expect that, yes.  
 14 Q. The medical charts that are maintained for  
 15 each prisoner, was that ultimately part of your  
 16 responsibility?  
 17 A. Yes.  
 18 Q. Who has access to those medical charts?  
 19 A. Any authorized personnel. Usually medical  
 20 personnel.  
 21 Q. Do correctional officers?  
 22 A. That's a good question. Ordinarily, the  
 23 correctional officers would not have access to medical  
 24 chart unless something was specifically indicated.  
 25 Q. Such as what?

11 (Pages 38 to 41)

Melbourne Henry

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1 A. Thinking further about it, I would say that  
2 they do not have access to medical chart, yeah.

3 **Q. At Palmer during 2002, there was typically a**  
4 **time of day when there was no medical personnel**  
5 **on-site, correct?**

6 A. Yes.

7 **Q. There was no 24-hour coverage at Palmer,**  
8 **right?**

9 A. At this particular time, I don't know. At  
10 some time we had 24-hour coverage. I don't know  
11 when -- when -- at what point it ceased, but --

12 **Q. Was that during your tenure as health care**  
13 **administrator?**

14 A. It could have been.

15 **Q. Do you know whether it was --**

16 A. The reason why I'm saying it could have  
17 been, I remember our going through a reorganization of  
18 the Department. We did a study. And the study  
19 indicated that some facilities did not need 24-hour  
20 care, nursing care or medical care. And so I -- I  
21 can't recall if Palmer was one of those facilities,  
22 but it could have been.

23 **Q. Do you remember when that study was done?**

24 A. I would say about 2001 or thereabout.

25 **Q. Do you remember what the study was called?**

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1 A. No, sir.

2 **Q. Do you remember who did it?**

3 A. It was done by an outside consultant, person  
4 from the State of Washington.

5 **Q. Do you remember who the consultant was?**

6 A. No, I don't.

7 **Q. It was commissioned by the Department of**  
8 **Corrections?**

9 A. Yes, indeed.

10 **Q. Up until the time of that study, is it**  
11 **correct to say that there was 24-hour medical coverage**  
12 **at Palmer?**

13 A. I don't know. But I would guess that there  
14 was. I don't know.

15 **Q. There was a point in time where there was**  
16 **24-hour coverage at Palmer; is that your memory?**

17 A. I can't say for certain that there was.

18 **Q. In any event, as a result of this study,**  
19 **24-hour coverage was eliminated at some facilities?**

20 A. That's correct.

21 **Q. But you're not sure which ones.**

22 A. Not sure which one, off the top of my head.

23 **Q. As I understand it, Department policy**  
24 **requires each inmate to get at least an initial**  
25 **medical screen when they come into State custody.**

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1 A. Yes.

2 **Q. And that was true when you were health care**  
3 **administrator?**

4 A. Yes.

5 **Q. Is there a policy that requires an inmate to**  
6 **receive a medical screen when they are transferred**  
7 **between facilities?**

8 A. I think if -- yes. However, if one screen  
9 was done just prior to the transfer being made, it  
10 would not be necessary, if that makes sense. I think  
11 that's what it was. But again, that's trusting my  
12 memory here.

13 **Q. I understand it's some years ago. We talked**  
14 **earlier about COs and whether or not they have access**  
15 **to medical charts.**

16 A. Yes.

17 **Q. Is it Department policy that all medical**  
18 **examinations of an inmate would be recorded in the**  
19 **chart?**

20 A. Oh, yes.

21 **Q. So any kind of lab work, measurements,**  
22 **testing of that sort that would be done on an inmate**  
23 **should be recorded in the chart?**

24 A. Yes.

25 **Q. So if blood pressure readings were taken,**

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1 **those should be recorded in an inmate's chart,**  
2 **correct?**

3 A. Yes.

4 **Q. As health care administrator, you would**  
5 **expect to see detailed records of all treatment by the**  
6 **medical staff at Palmer for any inmate, right?**

7 A. Yes, sir.

8 **Q. If an inmate at Palmer was being treated for**  
9 **high blood pressure with an implanted defibrillator,**  
10 **would you expect to see regular blood pressure**  
11 **measurements in the chart?**

12 A. I'm sorry. Would you restate your question,  
13 please?

14 **Q. If an inmate was being treated for high**  
15 **blood pressure, medicated for high blood pressure and**  
16 **had an implanted defibrillator, would you expect to**  
17 **see regular measurements of that inmate's blood**  
18 **pressure?**

19 A. Initially, I would expect to see regular  
20 measurement. And as the blood pressure stabilized, I  
21 would see less and less frequent measurement. That's  
22 what I would expect. But again, I don't look at those  
23 things since I'm not the medical director or health  
24 personnel. But just a common sense approach would say  
25 that to me.

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1 Q. With an inmate such as Mr. Davis who has  
2 filed a grievance relating to his medical care, once  
3 that grievance is filed -- sorry -- once that appeal  
4 is filed on June 27th, is there any Department policy  
5 that requires him to be examined medically?

6 A. No.

7 Q. If an inmate such as Mr. Davis has raised  
8 questions about his -- the adequacy of his medical  
9 care, would you expect to see follow-up?

10 A. I would expect to see that, yes. And based  
11 on that follow-up, some decision would be made whether  
12 or not there is any merit to his appeal. Or if  
13 there's merit to it, then the follow-up would lead  
14 into the right direction.

15 Q. When the response to the appeal is such as  
16 we see in Exhibit 1 --

17 A. Yes.

18 Q. -- that medical staff at the facility is  
19 adequate for your medical needs, would you expect to  
20 see follow-up care at the facility to be certain that  
21 his medical needs were being met?

22 A. Yeah. Consistent with this finding, I would  
23 set them to have follow-up. But, you know, whether  
24 the follow-up is a week or two weeks or whatever would  
25 be determined by the medical staff, based on the

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1 person's need. I can't make a judgment to say whether  
2 or not this follow-up was adequate or inadequate or  
3 what.

4 Q. In any event, you would expect to see  
5 follow-up.

6 A. Yes. If a person has a need in a facility,  
7 I expect to see follow-up.

8 Q. Let me ask you this: Because I really don't  
9 want to waste your time. If I were to ask you  
10 individual questions about Mr. Davis' medical care,  
11 I'm assuming you're going to tell me you don't know  
12 anything about it.

13 A. And that will be correct, yes.

14 Q. So asking you to look at documents relating  
15 to specific stages of his medical care, it's not  
16 something that you could tell me anything about.

17 A. I could not.

18 Q. Are you familiar generally with the forms  
19 that are used by the Department for medical care?

20 A. I used to be.

21 Q. Let me ask you this: Let me show you a  
22 document which has been previously Bates numbered by  
23 the Department with the numbers two, three and four.  
24 And my question relates to really the form for the  
25 physical examination that appears at page four. It

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1 says continuation on back. And I don't have a back.  
2 Do you know what would appear?

3 MS. KAMM: Oh.

4 THE WITNESS: It says continuation what?

5 BY MR. MATTHEWS:

6 Q. Continuation on the back.

7 A. Oh, continuation on back. Oh, I'd say that  
8 if it said that, then there was a back side to this  
9 form which wasn't copied.

10 Q. Do you know what the back side --

11 A. No, sir.

12 Q. -- would contain?

13 MS. KAMM: I'm sorry. Which number are we  
14 at? Which one are we looking at that says continued  
15 on back?

16 MR. MATTHEWS: Four.

17 THE WITNESS: Number four.

18 MS. KAMM: Let me see.

19 MR. MATTHEWS: Incidentally, I go from page  
20 four to page six in my copy.

21 MS. KAMM: So do I.

22 MR. MATTHEWS: Then we're all consistent.

23 THE WITNESS: What's page six? Is it more  
24 of the same?

25 MS. KAMM: This is page six right here.

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1 THE WITNESS: Oh, yeah. So we -- no, this  
2 is page four. Oh, this is six.

3 MS. KAMM: Yes.

4 THE WITNESS: This is the -- a different --  
5 chest wall, hearing, lung, 23. Interesting.

6 MS. KAMM: You gave him four. Okay.

7 MR. MATTHEWS: Yes.

8 THE WITNESS: This is yours.

9 MS. KAMM: Thank you.

10 BY MR. MATTHEWS:

11 Q. Any memory of what would have been on the  
12 back side of that form?

13 A. I know at one time we had a diagram of a  
14 person. And a person could identify on this chart  
15 what -- what areas of the anatomy was involved. So I  
16 don't know if that was it. But I can't say.

17 Q. Was it part of your responsibility as health  
18 care administrator to look at quality of care issues  
19 from a medical standpoint within the system?

20 A. Yeah. I -- I would request such a thing to  
21 be done. For example, with the medical director, we  
22 would ask that from time to time a given facility or  
23 given charts be pulled just to determine the quality  
24 of care that had been delivered, the consistency of  
25 care that was being done.

13 (Pages 46 to 49)



Melbourne Henry

Deposition

April 28, 2006

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1 Q. Like a peer review audit type thing?

2 A. Yes.

3 Q. Was there a regular time period for doing  
4 that at each institution?

5 A. No. There was no regular time for it.

6 Q. Who would do those audits, if I can call  
7 them that?

8 A. It would be done by the PA or the nurse  
9 practitioner who worked out of my office.

10 Q. Somebody directly on your staff then?

11 A. Yes. And similarly, if there were  
12 indication of a special problem at a facility, the  
13 same staff would go to do the investigation, to  
14 make -- see what was going on.

15 Q. Do you know whether there was ever an  
16 investigation of that nature at Palmer?

17 A. I don't recall that.

18 Q. If an inmate such as Mr. Davis came into  
19 State custody with a prescription from his private  
20 physician for regular testing because of his health  
21 care needs --

22 A. Yes.

23 Q. -- would Department policy be to follow that  
24 prescription?

25 A. No.

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1 Q. Department policy would be to --

2 A. Once the person comes into our custody, our  
3 system would take over. We would examine the  
4 prescription. And if the person were currently taking  
5 medication, we would take the medication and examine  
6 that and then make a determination based on our own  
7 assessment whether or not we should continue this  
8 regimen or we should dispense with it and use a new  
9 one. Because different practitioners see different  
10 things. And they make their own assessments.

11 Q. Would it make any difference to your policy  
12 whether the prescription that was made by the inmate's  
13 private practitioner was done by an M.D. or not?

14 A. Well, certain people are licensed to write  
15 prescriptions in the State. So if he came in with a  
16 legit prescription, regardless if it's an M.D. or a PA  
17 or a nurse practitioner, we would look at it. But  
18 it -- sometimes the physician or the PA who was doing  
19 the assessment will go along with what the  
20 prescription requests. But other times, they'll just  
21 discontinue it and do something else.

22 Q. Would you expect them to consider it?

23 A. They always consider it. They always  
24 consider it.

25 Q. If they were to follow a different path --

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1 A. Yes.

2 Q. -- would you expect that to be recorded in  
3 the medical charts?

4 A. Of course.

5 Q. Would you expect the reason for changing  
6 course to be recorded?

7 A. Yes.

8 Q. Would you expect there to be reference to  
9 the prior prescription?

10 A. Yes.

11 MR. MATTHEWS: Would you mark that, please?  
12 (Exhibit 2 was marked.)

13 BY MR. MATTHEWS:

14 Q. If you would take a look at what we've  
15 marked as Exhibit 2. I don't know that you've seen  
16 this document or not. Really, what I wanted to ask  
17 you about is whether you can clarify for me the -- who  
18 it's from when it just says "Medical."

19 A. Yeah. This say "PCC Medium Medical." So  
20 this is a shame that it has no signature. But I --  
21 are you asking for the specific individual?

22 Q. I guess what I want to make sure is the way  
23 I'm looking at this document, it appears to be  
24 internal to PCC from somebody within the Medical  
25 Department there --

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1 A. Yes. That's --

2 Q. -- which would have been a PA or a nurse  
3 practitioner.

4 A. A nurse, yeah.

5 Q. Okay. Is that the way you read this as  
6 well?

7 A. Yes.

8 Q. If this document had come from an M.D.,  
9 would you expect that would have been listed?

10 A. Not necessarily.

11 Q. Have you ever seen this document before?

12 A. No, sir.

13 MR. MATTHEWS: Mark that as the next one.  
14 (Exhibit 3 was marked.)

15 BY MR. MATTHEWS:

16 Q. If you'd take a look at Exhibit 3, please.

17 A. Yes. Is there a special section of it you  
18 want --

19 Q. Actually, all I want to ask you is if this  
20 is the policy for Health Care Services that was in  
21 effect at Palmer Correctional Center in 2002, if you  
22 know.

23 A. I would say it is.

24 Q. It's dated July -- appears to be July 7,  
25 1995. It appeared to me to be the one that was in

14 (Pages 50 to 53)

Exhibit 14

Page 14 of 16



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1 effect. But I just wanted to see if you could confirm  
2 that for me.

3 A. Yeah. I think sometime -- '95. Yeah, I  
4 would say it is. Looks like it.

5 MS. KAMM: Tom, I'll take a look, too, to  
6 confirm that it was.

7 MR. MATTHEWS: And maybe -- all I really  
8 want to make sure is that I know which policies were  
9 in effect.

10 MS. KAMM: I understand.

11 MR. MATTHEWS: I know you produced several  
12 different things, or your predecessor did.

13 MS. KAMM: Yes.

14 MR. MATTHEWS: So maybe we can take that up  
15 separately.

16 MS. KAMM: Okay. Yes. Because I don't  
17 know. I'll have to look at the computer and then look  
18 at my old policies to see. I mean, I would assume  
19 that this one was, because we produced it to you. But  
20 we're human so --

21 MR. MATTHEWS: Right. Sure.

22 THE WITNESS: And I know before I left, we  
23 were going through some policy revisions. And I know  
24 we tried to update policies and make them current. So  
25 if -- I can't say for an absolute certainty that this

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1 form was being used at the time.

2 BY MR. MATTHEWS:

3 Q. Do you know how often the policies were  
4 updated?

5 A. Not very often, sir.

6 Q. So the fact that this one is dated in '95,  
7 it may well have been the effective policy?

8 A. Easily could have been, yes. So I'd say  
9 it's a good chance that's the same policy, but just  
10 need to bear that in mind.

11 MR. MATTHEWS: Okay. Same question on this  
12 one.

13 (Exhibit 4 was marked.)

14 BY MR. MATTHEWS:

15 Q. Exhibit 4. Let me ask it this way, if I  
16 can, to make it easy: To the best of your knowledge,  
17 Dr. Henry, is the document we've marked as Exhibit 4  
18 the Health Care Organization and Administration policy  
19 which would have been in effect for Palmer in 2002?

20 A. Yes, sir.

21 MR. MATTHEWS: And one more.

22 (Exhibit 5 was marked.)

23 BY MR. MATTHEWS:

24 Q. Same question for Exhibit 5. To the best of  
25 your knowledge, Dr. Henry, is this the Policy and

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1 Procedure that would have been in effect for Palmer  
2 regarding use of pharmaceutical products in 2002?

3 A. I'm looking through this and I do not see a  
4 signature of the Commissioner on this form.

5 MS. KAMM: On page -- look at page 12.

6 THE WITNESS: Page 12, okay. That's a big  
7 one, yeah?

8 MR. MATTHEWS: I assume this one is, because  
9 it's the one you just faxed me.

10 MS. KAMM: Yes. The effective date is  
11 January 2001, but I will check it. I will check all  
12 of these.

13 THE WITNESS: Well, yes, sir.

14 BY MR. MATTHEWS:

15 Q. Okay. Are you able to tell me, Dr. Henry,  
16 for any point in time what medical treatment Mr. Davis  
17 received at Palmer?

18 A. No, sir.

19 Q. Are you able to tell me anything about his  
20 medical treatment at all?

21 A. No, sir.

22 Q. Are you able to tell me anything about his  
23 medical needs at all?

24 A. No, sir.

25 MR. MATTHEWS: Thank you, doctor. I

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1 appreciate your time. That's all the questions I  
2 have.

3 THE WITNESS: Thank you very much.  
4 (Whereupon, the deposition was  
5 concluded at 12:15 p.m.)  
6 (Signature pending.)  
7  
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15 (Pages 54 to 57)

Melbourne Henry

Deposition

April 28, 2006

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## 1 CERTIFICATE

2  
3 I, SUSAN CAMPBELL, Certified Shorthand  
4 Reporter and Notary Public in and for the State of  
5 Alaska, do hereby certify that the witness in the  
6 foregoing proceedings was duly sworn; that the  
7 proceedings were then taken before me at the time  
8 and place herein set forth; that the testimony  
9 and proceedings were reported stenographically by  
10 me and later transcribed by computer transcription;  
11 that the foregoing is a true record of the  
12 testimony and proceedings taken at that time;  
13 and that I am not a party to nor have I any  
14 interest in the outcome of the action herein  
15 contained.

16 IN WITNESS WHEREOF, I have hereunto set  
17 my hand and affixed my seal this \_\_\_\_\_ day  
18 of \_\_\_\_\_ 2006.  
19  
20  
21

22 SUSAN CAMPBELL, CSR  
23 My Commission Expires 4/26/08  
24  
25

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## 1 WITNESS CERTIFICATE

2 RE: Davis vs. Hyden, et al.  
CASE NO.: A02-0214 CV (JKS)  
3 DEPOSITION: Melbourne Henry  
DATE TAKEN: April 28, 2006  
4

I hereby certify that I have read the foregoing  
5 deposition and accept it as true and correct, with  
the following exceptions:  
6

Page	Line	Description/Reason for Change
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22 SIGNATURE DATE

23 Please sign your name and date it on the above line.  
(As needed, use additional paper to note corrections,  
24 dating and signing each page.) (SC)  
25

16 (Pages 58 to 59)

Exhibit 16

Page 16 of 16